

AMENDED IN SENATE SEPTEMBER 4, 2015

AMENDED IN SENATE JULY 7, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 701

Introduced by Assembly Member Cristina Garcia

February 25, 2015

An act to amend Sections 19817 and 19858 of the Business and Professions Code, relating to gaming.

LEGISLATIVE COUNSEL'S DIGEST

AB 701, as amended, Cristina Garcia. Gaming.

Existing law, the Gambling Control Act, provides for the licensure and regulation of various legalized gambling activities and establishments by the California Gambling Control Commission and the investigation and enforcement of those activities and establishments by the Department of Justice. *A willful violation of any provision of the act for which a penalty is not expressly provided, is punishable as a misdemeanor.* Existing law requires the commission to establish a 10-member Gaming Policy Advisory Committee for the purpose of discussing matters of controlled gambling regulatory policy and other relevant gambling-related issues. The committee is composed of representatives of controlled gambling licensees and members of the general public in equal numbers.

This bill would increase the membership of the committee from 10 to 12 members, and would instead require the committee to be composed of 5 representatives of controlled gambling licensees, 5 members of the general public, and 2 representatives from the Department of Justice.

Under the act, a person is deemed unsuitable to hold a license to own a gambling establishment if the person, or any partner, officer, director, or shareholder of the person, has any financial interest in any business or organization that is engaged in a prohibited form of gambling, whether within or without this state, except as specified.

This bill would exempt from that provision a person or entity that has (1) held a license in good standing as an owner of a gambling establishment for at least 5 years as of January 1, 2015, (2) has notified the California Gambling Control Commission and the Department of Justice, has received commission-approval approval, after completion of a background check conducted by the department, to obtain a financial interest in a business or organization within the United States that conducts lawful gambling outside of California that, if conducted within California, would be unlawful, (3) and has paid the commission and the department for the reasonable costs of the investigation and approval for obtaining the financial interest. *The bill would require the commission to adopt necessary regulations addressing, at a minimum, mandatory periodic reporting to the department by a licensee regarding the ownership and operations of a business or organization within the United States that conducts lawful gambling outside of California that, if conducted in California, would be unlawful.*

The bill would make it unlawful for any cross-promotion or marketing, as defined, to occur between the business or organization within the United States that conducts lawful gambling outside of California that, if conducted within California, would be unlawful, and the gambling establishment, as described. The bill would prohibit, among other things, a licensee, in connection with a business or organization that conducts lawful gambling outside of California that, if conducted within California, would be unlawful, from knowingly engaging in an activity or entering into an association that is unsuitable for the licensee because that activity or association poses an unreasonable threat to the control of gambling in this state. By creating a new crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 19817 of the Business and Professions
2 Code is amended to read:

3 19817. The commission shall establish and appoint a Gaming
4 Policy Advisory Committee of 12 members. The committee shall
5 be composed of five representatives of controlled gambling
6 licensees, five members of the general public, and two members
7 from the department. The executive director shall, from time to
8 time, convene the committee for the purpose of discussing matters
9 of controlled gambling regulatory policy and any other relevant
10 gambling-related issue. The recommendations concerning gambling
11 policy made by the committee shall be presented to the
12 commission, but shall be deemed advisory and not binding on the
13 commission in the performance of its duties or functions. The
14 committee may not advise the commission on Indian gaming.

15 SEC. 2. Section 19858 of the Business and Professions Code
16 is amended to read:

17 19858. (a) Except as provided in subdivisions (b), (c), and ~~(d)~~,
18 (g), a person shall be deemed to be unsuitable to hold a state
19 gambling license to own a gambling establishment if the person,
20 or any partner, officer, director, or shareholder of the person, has
21 any financial interest in any business or organization that is
22 engaged in any form of gambling prohibited by Section 330 of the
23 Penal Code, whether within or without this state.

24 (b) Subdivision (a) does not apply to a publicly traded racing
25 association, a qualified racing association, or any person who is
26 licensed pursuant to subdivision (b) or (c) of Section 19852.

27 (c) Subdivision (a) does not apply to a person or entity that
28 meets all of the following criteria:

29 (1) Holds a license in good standing as an owner of a gambling
30 establishment pursuant to this chapter for at least five years as of
31 January 1, 2015. *For purposes of this subdivision, "good standing"*
32 *means that the owner's state gambling license is not the subject*
33 *of outstanding allegations by the department for any violation of*
34 *the Gambling Control Act.*

(2) Has notified the commission and the department and received commission-approval approval, after completion of a background check conducted by the department, to obtain a financial interest in another business or organization within the United States that conducts lawful gambling outside of California that, if conducted within California, would be unlawful. A licensee shall provide the department with any information pertaining to the licensee's proposed participation in that business or organization as the department may request. The commission shall not grant a temporary approval under this section.

(3) Has paid the commission and the department for the reasonable costs incurred by the commission and the department for the investigation and approval to obtain the financial interest described in paragraph (2).

(d) It is unlawful for any cross-promotion or marketing to occur between the business or organization described in paragraph (2) of subdivision (c) and the gambling establishment described in paragraph (1) of subdivision (c). For purposes of this subdivision, "cross-promotion or marketing" means the offering to any customers of the gambling establishment anything of value related to visiting or gambling at the business or organization described in paragraph (2) of subdivision (c).

(e) A licensee shall not, in connection with a business or organization described in paragraph (2) of subdivision (c), knowingly do any of the following:

(1) Violate a foreign, federal, tribal, state, county, city, or township law, regulation, ordinance, or rule, or any equivalent thereof, concerning the conduct of gambling.

(2) Fail to conduct the operation in accordance with the standards of honesty and integrity required for gambling in this state.

(3) Engage in an activity or enter into an association that is unsuitable for a licensee because that activity or association does any of the following:

(A) Poses an unreasonable threat to the control of gambling in this state.

(B) Reflects or tends to reflect discredit or disrepute upon this state or gaming in this state.

(C) Is contrary to the public policy of this state concerning gaming.

1 (4) *Engage in an activity or enter into an association that*
2 *interferes with the ability of this state to collect all license fees*
3 *imposed by this chapter.*

4 (5) *Employ, contract with, or associate with, a person whom*
5 *the commission has found guilty of cheating or to whom the*
6 *commission has denied a gambling license, or finding of suitability,*
7 *on the ground of unsuitability.*

8 (f) *The commission shall adopt necessary regulations*
9 *addressing, at a minimum, mandatory periodic reporting to the*
10 *department by a licensee regarding the ownership and operations*
11 *of a business or organization described in paragraph (2) of*
12 *subdivision (c).*

13 ~~(d)~~

14 (g) Subdivision (a) does not apply to a person who meets all of
15 the following criteria:

16 (1) The person is licensed or had an application to be licensed
17 on file with the commission on or before February 1, 2013.

18 (2) The person has a financial interest in a business or
19 organization engaged in gambling prohibited by Section 330 of
20 the Penal Code that was closed and was not engaged in prohibited
21 gambling at the time the person was either licensed or had filed
22 an application to be licensed with the commission.

23 (3) The person has a financial interest in a gambling
24 establishment that is located on any portion of, or contiguous to,
25 the grounds on which a racetrack is or had been previously located
26 and horserace meetings were authorized to be conducted by the
27 California Horse Racing Board on or before January 1, 2012.

28 (4) The grounds upon which the gambling establishment
29 described in paragraph (3) is located are directly or indirectly
30 owned by a racetrack limited partnership owner. For purposes of
31 this paragraph, a “racetrack limited partnership owner” is defined
32 as a limited partnership, or a number of related limited partnerships,
33 that is or are at least 80 percent capitalized by limited partners that
34 are an “institutional investor” as defined in subdivision (w) of
35 Section 19805, an “employee benefit plan” as defined in Section
36 1002(3) of Title 29 of the United States Code, or an investment
37 company that manages a state university endowment.

38 ~~(e)~~

39 (h) Within three years of the date the closed business or
40 organization reopens or becomes engaged in any form of gambling

1 prohibited by Section 330 of the Penal Code, a person described
2 in subdivision-~~(d)~~ (g) shall either divest that person's interest in
3 the business or organization, or divest that person's interest in the
4 gambling enterprise or gambling establishment for which the
5 person is licensed or has applied to be licensed by the commission.

6 ~~(f)~~

7 (i) A person described in subdivision-~~(d)~~ (g) shall inform the
8 commission within 30 days of the date on which a business or
9 organization in which the person has a financial interest begins to
10 engage in any form of gambling prohibited by Section 330 of the
11 Penal Code.

12 ~~(g)~~

13 (j) During the three-year divestment period described in
14 subdivision-~~(e)~~; (h), it is unlawful for any cross-promotion or
15 marketing to occur between the business or organization that is
16 engaged in any form of gambling prohibited by Section 330 of the
17 Penal Code and the gambling enterprise or gambling establishment
18 described in paragraph (3) of subdivision-~~(d)~~; (g). For purposes of
19 this subdivision, "cross-promotion or marketing" means the
20 offering to any customers of the gambling enterprise or gambling
21 establishment anything of value related to visiting or gambling at
22 the business or organization engaged in any form of gambling
23 prohibited by Section 330 of the Penal Code.

24 ~~(h)~~

25 (k) During the three-year divestment period described in
26 subdivision-~~(e)~~; (h), any funds used in connection with the capital
27 improvement of the gambling enterprise or gambling establishment
28 described in paragraph (3) of subdivision-~~(d)~~ (g) shall not be
29 provided from the gaming revenues of either the business or
30 organization engaged in gaming prohibited under Section 330 of
31 the Penal Code.

32 ~~(i)~~

33 (l) If, at the end of the three-year divestment period described
34 in subdivision-~~(e)~~; (h), any person described in subdivision-~~(d)~~ (g)
35 has not divested his or her interest in either the gambling enterprise
36 or gambling establishment or the business or organization engaged
37 in any form of gaming prohibited under Section 330 of the Penal
38 Code, the prohibitions of Section 19858 as it read on January 1,
39 2013, apply.

1 *SEC. 3. No reimbursement is required by this act pursuant to*
2 *Section 6 of Article XIII B of the California Constitution because*
3 *the only costs that may be incurred by a local agency or school*
4 *district will be incurred because this act creates a new crime or*
5 *infraction, eliminates a crime or infraction, or changes the penalty*
6 *for a crime or infraction, within the meaning of Section 17556 of*
7 *the Government Code, or changes the definition of a crime within*
8 *the meaning of Section 6 of Article XIII B of the California*
9 *Constitution.*

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